

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

ERICK CAMPOS-ORDONEZ,

Petitioner, ORDER

-vs-

23-CV-6175 (CJS)

JEFFREY SEARLS, in his official capacity as Officer-in-Charge, Buffalo Federal Detention Facility,

Respondent.

Petitioner, an alien subject to a final order of removal, brought this action pursuant to 28 U.S.C. § 2241, alleging that Respondent violated his due process rights under the Constitution. Petitioner alleged, *inter alia*, that he has been in custody under 8 U.S.C. § 1231(a)(6) since August 2022. Pet., 1, Mar. 27, 2023, ECF No. 1. He further alleges that the Department of Homeland Security has not been able to effectuate his removal, and that there is not a significant likelihood of his removal in the foreseeable future. Pet. at 3. Therefore, he asks the Court to order his immediate release with reasonable terms of supervised release. Pet. at 6.

However, Respondent has moved to dismiss this action as moot, on the grounds that Petitioner is no longer in the custody of the United States. Mot. Dismiss, May 18, 2023 ECF No. 4. More specifically, Respondent has provided evidence that Petitioner was released from custody of the Department of Homeland Security (“DHS”) on an order of supervision. Mot. Dismiss, Ex. A, May 18, 2023, ECF No. 18-2.

“The district courts in this Circuit to have considered the issue have found that where an alien challenging his detention under 28 U.S.C. § 2241 is released during the pendency of his petition under an order of supervision, the petition is rendered moot.” *Denis v. DHS/ICE of Buffalo, N.Y.*, 634 F. Supp.2d 338, 341 (W.D.N.Y. 2009) (collecting cases). Indeed, “[t]he hallmark of a moot case or controversy is that the relief sought can no longer be given or is

no longer needed." *Martin-Trigona v. Shiff*, 702 F.2d 380, 386 (2d Cir. 1983). Thus, the Court finds that as a result of Petitioner's release from DHS custody, his application for a writ of habeas corpus is moot. See, e.g., *Ojo v. Wolf*, No. 6:20-CV-06296 EAW, 2021 WL 795320, at *2 (W.D.N.Y. Mar. 2, 2021).

Accordingly, it is hereby

ORDERED, that Respondents' motion [ECF No. 4] is granted; and it is further

ORDERED, that Petitioner's application [ECF No. 1] is dismissed.

The Clerk of the Court is directed to terminate this action.

SO ORDERED.

Dated: July 28, 2023
Rochester, New York


CHARLES J. SIRAGUSA
United States District Judge